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INTERSTATE COMMERCE COMMISSION

**RECONSTRUCTION AND CONDITIONAL SALE AGREEMENT**

**Dated as of March 1, 1975**

**among**

**MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,**

**CHASE MANHATTAN SERVICE CORPORATION,**

**BURLINGTON EQUIPMENT COMPANY**

**and**

**BURLINGTON NORTHERN INC.**

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### Attachments to Reconstruction and Conditional Sale Agreement:

ANNEX A —Builder's Warranties and Patent Indemnities

SCHEDULE A—Equipment Description

SCHEDULE B—Amortization Schedule

EXHIBIT A —Transfer Agreement

EXHIBIT B —Equipment Lease

RECONSTRUCTION AND CONDITIONAL SALE AGREEMENT dated as of March 1, 1975 among MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY (the "Vendor"), as Agent under a Finance Agreement dated as of the date hereof (the "Finance Agreement"), CHASE MANHATTAN SERVICE CORPORATION (the "Vendee"), BURLINGTON EQUIPMENT COMPANY (the "Builder") and BURLINGTON NORTHERN INC. (the "Railroad").

WHEREAS the Vendee has acquired or will acquire all right, title and interest in certain railroad equipment (the "Hulks") pursuant to a Hulk Purchase Agreement (the "Hulk Purchase Agreement") dated as of March 1, 1975, with the Railroad, and will subject the same to a security interest in favor of the Vendor for the purpose of causing the Hulks to be reconstructed; and

WHEREAS the Vendor has acquired or will acquire security title to the Hulks pursuant to the Transfer Agreement (the "Transfer Agreement") dated as of March 1, 1975, between the Vendor and the Vendee, in substantially the form of Exhibit A attached hereto, for the purpose of causing the Hulks to be reconstructed as described herein and thereupon selling the Vendor's interest in the Hulks to the Vendee and the Vendee has agreed to purchase such interest in the Hulks so reconstructed (the reconstructed Hulks described in Schedule A hereto being hereinafter called the "Equipment"); and

WHEREAS certain of the obligations of the Vendee under this Agreement are limited to the extent provided in Articles 3 and 21 hereof; and

WHEREAS the Hulks have been or will be delivered to the Builder and the Builder has agreed to cause the Hulks to be reconstructed as required hereby to enable delivery of the Equipment to be made to the Vendee in accordance herewith; and

WHEREAS the Vendee and the Railroad are entering into a Lease of Railroad Equipment, dated as of the date hereof (the "Lease"), substantially in the form of Exhibit B attached hereto, leasing the Equipment to the Railroad, which Lease will be filed with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act concurrently with the filing of this Agreement thereunder; and

WHEREAS the Railroad, in order to obtain the use of the Equipment under the Lease and to induce the Vendor to enter into this Agreement, has joined in this Agreement for the purpose of setting forth certain agreements as hereinafter set forth.

Now, THEREFORE in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. *Construction and Sale.* Pursuant to this Agreement, the Builder will cause the Hulks to be reconstructed into the Equipment as described in Schedule A hereto and will deliver the Equipment, on behalf of the Vendor, to the Vendee and the Vendee will accept delivery of and pay for the Equipment as hereinafter provided, each unit of which shall be standard gauge railroad equipment reconstructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof as may be agreed upon in writing by the parties hereto (which specifications and modifications, if any, are by reference made a part of this Agreement as fully as though expressly set forth herein and are hereinafter called the Specifications). The Builder warrants to the Vendor and the Vendee that the design, quality and component parts of the Equipment will conform, on the date of delivery of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications, and all standards recommended by the Association of American Railroads, reasonably interpreted as being applicable to railroad equipment of the character of the Equipment as of the date of this Agreement.

ARTICLE 2. *Inspection and Delivery.* The Builder will deliver the units of the Equipment, on behalf of the Vendor, to the Vendee at such point or points within the United States of America as shall be specified by the Builder, freight charges, if any, prepaid, prior to June 30, 1976. No unit of Equipment may be delivered until after this Agreement and the Lease have been filed pursuant to Section 20(c) of the Interstate Commerce Act. Anything in this paragraph to the contrary notwithstanding, it is hereby agreed that the Builder shall have no obligation to deliver any units of Equipment hereunder if any event of default as defined in Article 15 hereof or any event (including particularly the commencement of any proceeding or the filing of any petition of the nature specified in subparagraphs (c) and (d) of Article 15 hereof) which, with lapse of time, failure to take affirmative action and/or demand, could constitute an event of default hereunder shall have occurred (any such event of default or event being hereinafter called a "Default").

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plants, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered and accepted and settled for pursuant to Article 3 hereof on or before June 30, 1976 shall be excluded herefrom. If any Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence or pursuant to Article 3 hereof, the parties to this Agreement shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. The Vendor and the Vendee shall have no obligation to accept or pay the Builder the Reconstruction Cost hereunder or to pay the Railroad the Hulk Purchase Price under the Hulk Purchase Agreement for any Equipment so excluded from this Agreement but shall, in lieu thereof, assign all their right, title and interest therein to the Railroad and the Railroad will indemnify and hold harmless the Vendor and the Vendee for any and all claims and liabilities in respect thereof.

If the Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the second paragraph of this Article 2 or if any Equipment is excluded from this Agreement pursuant to the first paragraph of Article 3 hereof or is not otherwise settled for pursuant to Article 3 hereof (otherwise than due to the failure of the Builder to deliver the Equipment), the Railroad shall be obligated to accept such equipment and pay the full Purchase Price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or, if the Builder and the Railroad shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing.

During reconstruction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee and the Vendor and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the reconstruction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units pursuant to the first paragraph of this Article 2; and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof; *provided, however*, that the Builder shall not thereby be relieved of its warranties set forth or referred to in Article 13 hereof. By Section 2 of the Lease, the Vendee is appointing the Railroad its agent to inspect and accept delivery of each unit of the Equipment. Acceptance of any unit of Equipment by the Railroad (or its employees or agents, as aforesaid) shall be deemed to be acceptance of such unit by the Vendee.

ARTICLE 3. *Purchase Price and Payment.* The cost of each of the Hulks (the "Hulk Purchase Price" for such Hulk) and the estimated base reconstruction cost per unit of the Equipment are set forth in Schedule A hereto. The term "Reconstruction Cost" for each unit of Equipment shall mean the actual cost to the Builder (including reasonable allocation of overhead) of doing the reconstruction work or the estimated base reconstruction cost, whichever is the lesser, of such unit. The term "Purchase Price" for each unit of Equipment as used herein means the sum of the Hulk Purchase Price and the Reconstruction Cost for such unit. If on any Closing Date the aggregate of the invoiced Purchase Prices for which settlement has theretofore been or is then being made under this Agreement would, but for the provisions of this sentence, exceed \$7,533,460 (or such higher amount as the Vendee and the Vendor may at their option agree to) the Builder and the Railroad will, upon request of the Vendee, enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion reduce the aggregate invoiced Purchase Prices under this Agreement to not more than \$7,533,460 (or such higher amount as aforesaid).

For the purpose of settlement therefor, the Equipment shall be divided into three groups of units of the Equipment (each such group being hereinafter called a "Group"). The term "Closing Date" (i) with respect to the first such Group shall be on a date during the month of July, 1975, and (ii) with respect to the second such Group shall mean such date during the month of October, 1975, and (iii) with respect to the third and final such Group shall mean such date in 1976 not later than June 30, 1976, each of which shall occur not more than ten business days following presentation by the Builder to the Vendee of the invoice for such Group, as shall be fixed by the Railroad by written notice delivered to the Vendee and the Vendor at least seven business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and any other day on which banking institutions in Baltimore, Maryland, or New York, New York, are authorized to remain closed.

On the terms hereof, the Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the units of Equipment in each Group settled for hereunder, as follows:

(a) on the Closing Date with respect to such Group an amount equal to 40.00% of the aggregate Purchase Price of such Group; and

(b) an amount equal to the aggregate Purchase Price of such Group, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph, plus interest on the unpaid balance thereof, payable as follows:

(1) one installment of interest only at the rate of 10% per annum for the period, if any, from and including the Closing Date for such Group to, but not including, the earlier of (x) June 30, 1976, or (y) the Closing Date for the final Group hereunder (said earlier date being hereinafter called the "Cut-Off Date"), which installment of interest is payable on the Cut-Off Date, followed by

(2) 11 consecutive semiannual installments of interest only at the rate of 10% per annum, commencing on the first semiannual anniversary date of the Cut-Off Date, followed by

(3) 19 consecutive semiannual installments, including both principal and interest, at the rate of 10% per annum, commencing on the first semiannual anniversary date of the due date of the final installment of interest only provided for in the preceding clause (2).

The portion of the aggregate Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (other than the interest portion thereof) is herein called the "Conditional Sale Indebtedness". The installments of principal payable on each semiannual installment payment date pursuant to clause (3) of subparagraph (b) of the preceding paragraph shall be calculated so that the amount and allocation of principal and interest payable on each such date shall be substantially in proportion to

the amount and allocation of principal and interest on each such date set forth in Schedule B hereto. The Vendee will furnish to the Vendor and the Railroad promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on such dates.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Vendee will pay interest at the rate of 11% per annum upon all principal amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and, if requested by the Vendor, shall be made by bank wire transfer. Except as provided in Article 6 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The parties hereto contemplate that the Vendee will on the Closing Date for a Group furnish to the Vendor that portion of the Purchase Price for the units of Equipment in such Group as is required under subparagraph (a) of the third paragraph of this Article 3 and that such portion plus an amount equal to the balance of such Purchase Price for the units of Equipment in such Group shall be paid by the Vendor to the Builder and the Railroad, in accordance with their respective interests as set forth in the invoices delivered to the Vendor pursuant to subparagraph (b) of the immediately succeeding paragraph. The obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article 3 with respect to any Group is specifically subject to the fulfillment on or before the Closing Date with respect to such Group of the following conditions (any of which may be waived by the Vendee and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article 3 with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Vendor shall have received pursuant to the Finance Agreement sufficient available funds to make payment for the units of Equipment in such Group, subject only to the further receipt from the Vendee of the portion of the Purchase Price of such units required under subparagraph (a) of the third paragraph of this Article 3;

(b) no event of default of the Railroad specified herein or Event of Default under the Lease, or any event which with lapse of time and/or demand provided herein or in the Lease would constitute such an event of default or Event of Default, shall have occurred, whether or not it is continuing; and

(c) the Vendee shall have received, in form and substance satisfactory to it and its counsel, (i) the documents required to be delivered to the Vendor under clauses (a) and (b) of the next succeeding paragraph, and (ii) the opinions of counsel for Railroad required by clause (e) of the next succeeding paragraph (addressed to the Vendee) and by §15 of the Lease, and (iii) such other documents or opinions as the Vendee may reasonably request.

The Vendor shall be under no obligation to make payment for the units of Equipment in such Group to the Builder or the Railroad unless there shall have theretofore been delivered to the Vendor the following documents, in form and substance satisfactory to it and its special counsel hereinafter mentioned:

(a) the Certificate of Acceptance contemplated by Section 2 of the Lease and this Article 3 with respect to the Equipment in the Group;

(b) invoice of the Builder for the reconstruction of the units of Equipment in the Group and of the Railroad for the Hulks accompanied by or having endorsed thereon (in the case of the Reconstruction invoice) the approval of the Railroad of the prices stated therein and a certification by the Railroad as to the correctness of the prices stated therein and as to the Purchase Price having been computed as provided in the first paragraph of this Article 3 and not exceeding the price that would be charged by an independent car rebuilder for comparable reconstruction;

(c) an opinion of Messrs. Chapman and Cutler, who are acting as special counsel for the Vendor and the Investors referred to in the Finance Agreement, dated as of such Closing Date, stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by the Investors (as defined therein), is a valid and binding agreement, (ii) the Hulk Purchase Agreement, the Transfer Agreement, this Agreement and the Lease have each been duly authorized, executed and delivered by the parties thereto and are legal, valid and binding instruments enforceable in accordance with their respective terms, (iii) security title to the units of Equipment in such Group is validly vested in the Vendor, free of all claims, liens, security interests and other encumbrances except only the rights of the Vendee under this Agreement, and the rights of the Railroad under the Lease, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of this Agreement, (v) the Transfer Agreement, this Agreement and the Lease have each been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Vendor hereunder or under the Transfer Agreement in any state of the United States of America or the District of Columbia and (vi) the offering, sale and delivery of this Agreement and the Conditional Sale Indebtedness payable hereunder under the circumstances contemplated by the Finance Agreement constitute an exempted transaction under the Securities Act of 1933, as amended, which does not require registration thereunder of this Agreement, the Conditional Sale Indebtedness or the certificates of interest issued pursuant to the Finance Agreement, and under the Trust Indenture Act of 1939, which does not require qualification of an indenture thereunder, and if any Investor should in the future deem it expedient to sell its interests in the Conditional Sale Indebtedness (which none of the Investors now contemplate or foresee), such sale would be an exempted transaction under the Securities Act of 1933, as amended, providing that the circumstances involved in any such transaction do not constitute such Investor an "underwriter" of the Conditional Sale Indebtedness within the meaning of said Act, and the transaction is not made through an "underwriter" within the meaning of said Act; and said opinion shall cover such other matters as shall be reasonably requested by the Vendor or the Investors;

(d) a favorable opinion or opinions of counsel for the Vendee, dated as of such first Closing Date, stating that the Hulk Purchase Agreement, the Transfer Agreement, this Agreement and the Lease have been duly authorized, executed and delivered by the Vendee and, assuming due authorization, execution and delivery by the other parties thereto, are legal, valid and binding instruments enforceable against the Vendee in accordance with their terms;

(e) a favorable opinion of counsel for the Builder and the Railroad, dated as of such Closing Date, covering the matters referred to in clauses (i) and (ii) of subparagraph (c) insofar as they relate to the Railroad and the Builder and clauses (iii) through (v) of subparagraph (c) and stating that the Railroad and the Builder are each duly organized and validly existing corporations in good standing under the laws of their respective states of incorporation and have the power and authority to own properties and to carry on their respective businesses as now conducted and that at the time of delivery of the units of the Equipment in such Group on such Closing Date to the Vendor hereunder, such units were free of all claims, liens, security interests and other encumbrances of the Builder or the Railroad or of anyone claiming through the Builder or the Railroad.

Counsel may qualify any opinion as to the enforceability of any instrument by a general reference to bankruptcy, reorganization, moratorium or other laws affecting the enforcement of creditors' rights

generally. Counsel for the Vendee may further qualify its opinion by reference to principles of equity applicable to the enforceability of the remedy of specific performance. In giving its opinion pursuant to subparagraph (c) (iii), counsel may rely on said opinion of counsel for the Builder and the Railroad.

The obligation of the Vendor to make payment for the units of Equipment in any Group to the Builder and the Railroad is expressly conditioned on the Vendor's having received pursuant to the Finance Agreement sufficient available funds to make such payment and upon the Vendor's having received from the Vendee that portion of the Purchase Price for the units of Equipment in such Group as is required under subparagraph (a) of the third paragraph of this Article 3. The Vendor shall not be obligated to make any such payment at any time if a Default (as defined in Article 2 hereof) shall have occurred, whether or not it is continuing. In the event that the Vendor shall not, for any reason, pay to the Railroad or the Builder any funds received from the Investors on any Closing Date, it shall not pay to the Railroad or the Builder any funds received from the Vendee for purposes of payment to the Railroad and/or the Builder on such Closing Date and shall promptly repay such funds received from the Vendee to the Vendee. Notwithstanding anything to the contrary herein expressed or implied, the parties hereto agree that the Vendor shall have no obligation with respect to the reconstruction of the Hulks and delivery of the Equipment hereunder to the Vendee except to the extent that the Builder has fully complied with the Builder's obligations with respect to such reconstruction and delivery.

Notwithstanding any other provision of this Agreement, (including, but not limited to, any provision of Articles 15 and 16 hereof), it is understood and agreed by the Vendor that the liability of the Vendee for all payments to be made by it under and pursuant to this Agreement, or for any claim (other than a claim under the first paragraph of Article 14 hereof) based on any provision of this Agreement (including without limitation any claims based on breach of the obligations of the Vendee under the first paragraph of Article 6, the second, fifth, seventh and eighth paragraphs of Article 16, and under Articles 5, 8, 9, 10, 12, 13 and 18 hereof) with the exception only of the payments to be made pursuant to subparagraph (a) of the third paragraph of Article 3, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment" as defined below. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee shall have no personal liability to make any payments or discharge any claims (other than a claim based on the first paragraph of Article 14 hereof) due or arising under this Agreement whatsoever except from the "income and proceeds from the Equipment". In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty as to, and is not responsible for, the due execution, validity or enforceability of the Lease or any document relating thereto (except for the due authorization, execution and delivery thereof by the Vendee) or of any of the Railroad's obligations thereunder, (ii) makes no representation or warranty as to title to or the condition of the Hulks or the Equipment and (iii) shall have no obligation or liability whatsoever to see to or be responsible for the performance by the Railroad or the Builder of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease, the Hulk Purchase Agreement, the Finance Agreement and this Agreement; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Railroad and the Equipment and to the Vendor's rights under the Lease against the Railroad and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean all amounts of rental and amounts in respect of Casualty Occurrences (as hereinafter defined in Article 6 hereof) paid or payable by the Railroad for or with respect to the Equipment under the Lease or received by the Vendor for or with respect to the Equipment as the result of the sale, lease or other disposition thereof; it being understood that the term "income and proceeds from the Equipment" shall in no event include any of said amounts paid by the Vendor to the Vendee pursuant to this Agreement or the Finance Agreement. It is further agreed by the parties hereto that nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein or against the Railroad under the Lease for the full unpaid Purchase Price of the Equipment and interest thereon. Notwithstanding anything to the contrary contained in Articles 15 and 16 hereof, the Vendor agrees that in the event it shall



obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment against the Vendee to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 4. *Title to the Equipment.* The Vendor shall and hereby does retain the full security title to and property in the Hulks delivered to the Builder hereunder for reconstruction and shall continue to retain such title during the entire period that the Hulks are being reconstructed and thereafter in the Equipment until the Vendee shall have made all its payments under this Agreement in respect of the Equipment and shall have kept and performed all its agreements herein contained in respect thereof, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Railroad as provided in this Agreement. Any and all additions to the Hulks and the Equipment, and any and all parts installed on and additions or replacements made to any Hulk or unit of Equipment (other than such additions by the Railroad under the Lease which are not replacements and the cost of which is not included in the Hulk Purchase Price or such Hulk or Reconstruction Cost of such unit of Equipment and which are not required for the operation or use of such Hulk or unit of Equipment by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body and which can be removed without damage to and without impairing the originally intended function or use of such Hulk or unit of Equipment and which are so removed without cost or expense to the Vendor or the Vendee) shall be considered accessions thereto and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 6 hereof, when and only when the Vendor shall have been paid the full Conditional Sale Indebtedness, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute and deliver to the Vendee a release of the Vendor's security interest in the Equipment transferring its security title thereto and property therein to the Vendee, free of all liens, security interests and other encumbrances created or retained hereby and (b) execute and deliver to the Vendee for filing in all necessary public offices, such instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to such Equipment. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty or damages for failure to execute and deliver such release or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such release or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 5. *Taxes.* All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the

Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; *provided, however*, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of Vendor, adversely affect the title, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however*, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved the payment thereof.

ARTICLE 6. *Maintenance and Repair; Casualty Occurrences.* The Vendee agrees that, at its own cost and expense, it will cause each unit of the Equipment to be maintained in good order and repair, ordinary wear and tear excepted.

In the event that any unit of the Equipment shall be or become lost, stolen, destroyed or irreparably damaged from any cause whatsoever, or title to such unit or the use thereof shall be taken or requisitioned by condemnation, eminent domain or otherwise, for a period, in the case of a taking or requisition of use, extending beyond the term of the Lease (each such occurrence, except for any taking or requisition of use which by its terms is indefinite or which does not extend beyond the term of the Lease, being hereinafter called a "Casualty Occurrence", it being understood that such a taking or requisition of use which is in effect on the last day of the term of the Lease shall constitute a "Casualty Occurrence") during the term of the Lease or before possession of such unit is delivered to the Vendee as provided in §14 of the Lease, the Railroad shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the date on which the Railroad is required to make payment for such Casualty Occurrence pursuant to the Lease, the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article 6) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied on the date that such Casualty Value is paid to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment thereof, the Conditional Sale Indebtedness, and the Vendee will promptly furnish to the Vendor and the Railroad a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request, calculated as provided in the fourth paragraph of Article 3 hereof. In the event that prior to the expiration of the original term of the Lease, the use of any unit of Equipment is requisitioned or taken by any governmental authority by condemnation, under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Vendee's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking.

Upon payment of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Railroad, an appropriate instrument confirming such passage to the Vendee of all Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Conditional Sale Indebtedness remaining unpaid thereon on the date as of which such Casualty Value shall be determined (without giving effect to any

prepayment or prepayments theretofore made under this Article 6 with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of Conditional Sale Indebtedness made pursuant to Article 3 hereof shall be deemed to be a payment on each unit of Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the units of Equipment.

It is further agreed that any insurance proceeds or condemnation payments received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor in respect thereof pursuant to the second paragraph of this Article 6. If the Vendor shall receive any other insurance proceeds or condemnation payments in respect of insurance carried in respect of such units suffering a Casualty Occurrence after the Vendee shall have made payments pursuant to this Article 6 without deduction for such insurance proceeds or condemnation payments, the Vendor shall pay such insurance proceeds or condemnation payments to the Vendee. All proceeds of insurance or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 7. *Assignment of Lease.* To further secure the payment of the full amount of the indebtedness in respect to the Purchase Price of the Equipment, together with interest thereon, and all other payments as herein provided and for the performance of the Vendee's obligations herein contained, the Vendee hereby assigns, transfers and sets over unto the Vendor, and grants a security interest in, all the Vendee's right, title and interest, as lessor under the Lease, together with all rights, powers and privileges, and all other benefits of the Vendee as lessor under the Lease, including, without limitation, except as hereinafter provided, the immediate right to receive and collect all rentals and profits and other sums payable to or receivable by the Vendee under or pursuant to the provisions of the Lease, and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default under the Lease and to do any and all other things whatsoever which the Vendee, as lessor, is or may become entitled to do under the Lease; provided that the Vendor may not, without prior written consent of the Vendee, waive compliance by, or consent or agree to the non-performance by the Lessee of, any of its obligations under the Lease. In furtherance of the foregoing assignment, the Vendee hereby irrevocably authorizes and empowers the Vendor, in its own name, or in the name of its nominee, or in the name of the Vendee, or as its attorneys, to ask, demand, sue for, collect and receive any and all sums to which the Vendee is or may become entitled under the Lease and to enforce compliance by the Railroad with all the terms and provisions of the Lease. This assignment being made only as security shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify, the liability of the Vendee under the Lease, it being understood and agreed that notwithstanding this assignment, or any subsequent assignment, all obligations of the Vendee to the Railroad, under the Lease, shall be and remain enforceable by the Railroad, its successors and assigns, against, and only against, the Vendee. Further, the Vendee covenants and agrees that it will perform all its obligations to be performed under the terms of the Lease, and hereby irrevocably authorizes and empowers the Vendor, in its own name, or in the name of its nominee, or in the name of the Vendee, as its attorney, on the happening of any failure by the Vendee to perform or cause to be performed, any such obligation. The Vendor hereby agrees with the Vendee that the amount of any such Lease payments which are in excess of any payments of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon, which are due and payable hereunder on or prior to the due date of the payments from time to time made under the Lease shall be released by the Vendor to or upon the order of the Vendee as provided in the Finance Agreement. Upon the full discharge and satisfaction of the full amount of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon, and all other payments as herein provided and the performance of all of the Vendee's obligations herein contained, the assignment made hereby and all rights herein assigned to the Vendor shall cease and terminate, and all

estate, right, title and security interest of the Vendee granted, assigned, transferred or set over pursuant to this Article 7 in and to the Lease shall revert to the Vendee, and the Vendor, if so requested by the Vendee, will execute and deliver to the Vendee an instrument evidencing the release of such interest, including any instrument required for filing as may be necessary or appropriate in order to make clear upon the public records the interest of the Vendee in the Lease.

ARTICLE 8. *Reports and Inspections.* On or before March 31 in each year, commencing with the year 1976, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as of the preceding December 31 the amount, description and numbers of the Equipment then covered hereby, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, such Equipment is marked as required by Article 9 hereof. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the continuance of this Agreement.

ARTICLE 9. *Marking of Equipment.* The Vendee will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Mercantile-Safe Deposit and Trust Company, Agent, Security Owner" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control over the same until such name and words shall have been so marked on both sides thereof and will replace or will cause to be replaced promptly any such name and words which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of a new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Vendee may allow the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of the rights of the Railroad or its affiliates to use the Equipment as permitted under the Lease. Nothing contained in this Article 9 shall prevent the Vendee from allowing the Equipment to be lettered with its name, initials or other insignia.

ARTICLE 10. *Compliance with Laws and Rules.* During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects with all laws of the jurisdictions in which its or such lessees' operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, and in the event that such laws or rules require any alteration of any unit of the Equipment, or in the event that any equipment or appliance on any such unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such unit in order to comply with such laws or rules, the Vendee will make such alterations, changes,

replacements and additions at its own expense; *provided, however*, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. *Possession and Use.* The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee may lease the Equipment to the Railroad as permitted by, and for use as provided in, the Lease, and it is hereby acknowledged and agreed that the rights of the Vendor under this Agreement are subject to the rights and interests of the Railroad under the Lease; provided that no unit of Equipment may be delivered to, or accepted or used by, the Railroad under the Lease prior to the settlement for such unit on the Closing Date therefor as provided in Article 3 hereof. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

The Vendee may also lease the Equipment to any other railroad company, but only with the prior written consent of the Vendor, which consent may be subject to the conditions, among others, that (i) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America, (ii) a copy of such lease shall be furnished to the Vendor, and (iii) such lease shall be assigned to the Vendor as security on terms consistent herewith and in any event satisfactory to the Vendor.

ARTICLE 12. *Prohibition Against Liens.* The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might result in a Lessor's Lien (as such term is defined in the Lease) on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 13. *Indemnities and Warranties.* The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when security title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the conveyance of security title to, the Equipment, as provided in Article 4 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 1 and 2 of Annex A hereto.

The warranties and indemnities of the Builder contained or referred to in this Article 13 and in any other Articles hereof and all other covenants and obligations of the Builder contained in this Agreement shall inure to the benefit of, and be enforceable by, any lessee, assignee or transferee of this Agreement or of any units of the Equipment reconstructed by the Builder hereunder.

The Vendee and the Railroad expressly agree, for the purpose of inducing the execution and delivery of this Agreement by the Vendor, that the rights of the Vendor to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment for the reconstruction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness for liability at any time owing to the Vendee or the Railroad by the Builder. Any and all such obligations howsoever arising shall be and remain enforceable by the Vendee or the Railroad, as the case may be, against and only against the Builder.

ARTICLE 14. *Assignments.* The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee) and (ii) unless such obligations are assumed by The Chase Manhattan Corporation, a Delaware corporation, or any other corporation, all the shares of which (other than directors' qualifying shares) are owned directly or indirectly by The Chase Manhattan Corporation, provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without its vendee, assignee or transferee assuming any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Railroad hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to reconstruct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 13 hereof, or relieve the Vendee or the Railroad of their respective obligations to the Builder contained in Articles 1, 2, 3, 5, and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment by the Vendor, either the assignor or the assignee shall give written notice to the Vendee and the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee and the Railroad, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

In the event of any such assignment or successive assignments by the Vendor, the Railroad will, upon request by the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interest of such assignee in the Equipment, to the extent necessary to conform to any requirements of the laws of the jurisdictions in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Railroad and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

If the Builder shall not receive on the Closing Date with respect to a Group of units of Equipment the aggregate Reconstruction Cost in respect of all such units proposed to be settled for on such Closing Date, the Builder will promptly notify the Vendee and the Railroad of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of the Builder, enter into an appropriate written agreement with the Builder excluding from this Agreement those units of Equipment whose aggregate Reconstruction Cost shall not have been received, and the Railroad will, not later than 90 days after such Closing Date, pay or cause to be paid to the Builder the aggregate unpaid Reconstruction Cost of such units, together with interest thereon from such Closing Date to the date of payment by the Railroad at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment is due.

ARTICLE 15. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of any provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 10 days; or

(b) The Vendee or the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) Any other proceeding shall be commenced by or against Vendee or the Railroad for any relief which includes, or might result in, any modification of the obligations of the Railroad or the Vendee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee or the Railroad under this Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee or the Railroad, as the case may be, under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or

receivers appointed (whether or not subject to ratification) for the Vendee or the Railroad, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) The Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(f) An Event of Default shall have occurred and be continuing under the Lease;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Vendor declare (hereinafter called a "Declaration of Default") the entire unpaid principal of the indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid principal balance of such indebtedness shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 3 hereof as being applicable to amounts remaining unpaid after becoming due and payable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of income and proceeds from the Equipment (as defined in Article 3 hereof). The Vendee shall promptly notify the Vendor of any event referred to in clause (b), (d) or (e) above which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement and the Railroad shall promptly notify the Vendor of any event referred to in clause (a), (b), (c), (d), or (f) above which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

Notwithstanding the rights of the Vendor otherwise expressed in this Article 15, in case of the occurrence of any Default hereunder or under the Lease, other than the occurrence and continuation of an event set forth in paragraph (c) or (d) of Article 15 hereof or in Section 10D or 10E of the Lease, the Vendor may not, without the prior written consent of the Vendee, exercise any of the rights or remedies provided herein or in the Lease before or during a 30-day period following the giving of written notice of such Default by the Vendor or the Vendee. During such 30-day period the Vendee shall have the right to cure such Default; provided that such right to cure a Default may be exercised not more than two times in respect on any Default which may be cured by the payment of semiannual rental payments under the Lease and for all other Defaults, the period during which such cure may continue in effect shall be limited to one year from the date of the giving of the notice of such Default by the Vendor to the Vendee. The Vendee in connection with its exercise of any such right to cure shall not obtain any lien, charge or encumbrance of any kind for its benefit on any of the Equipment or any rentals or other amounts payable therefor under the Lease, nor shall any claim of the Vendee against the Railroad or against any other party for the repayment of any sums paid or expenses incurred in connection with the exercise of any such right to cure impair the prior right of the Vendor to any sums payable hereunder and under the Lease.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Vendee and the Railroad in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the parties hereto that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.



ARTICLE 16. *Remedies.* At any time during the continuance of a Declaration of Default, the Vendor may in compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person (but subject to the rights and interests of the Railroad under the Lease) and for such purpose may enter upon any premises where the Equipment may be located without judicial process if this can be done without breach of the peace, and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee.

Subject to the rights and interests of the Railroad under the Lease, in case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, subject to the provisions of Article 21 hereof, at its own expense and risk, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any of the Equipment to return the Equipment), cause (a) the Equipment to be moved to and assembled at such location as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor, and (b) the Equipment to be moved to such interchange point or points as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad has agreed to furnish promptly to the Vendor, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad and to permit inspection of the Equipment by the Vendor, the Vendor's representatives and respective purchasers and users.

This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, subject to the rights and interests of the Railroad under the Lease, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Railroad by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Railroad may be retained by the Vendor as compensation for the use of the Equipment; *provided, however*, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; *provided, further*, that if the Vendee, the Railroad or any other persons notified under

the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Railroad and any other persons to whom the law may require notice of the time and place, may, subject to the rights and interests of the Railroad under the Lease, sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee or any other party claiming from, through or under the Vendee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 railroads have been solicited in writing to submit bids), it shall be subject to the rights of the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of

time for payment hereunder or other indulgence duly granted to the Vendee or the Railroad shall not otherwise alter or affect the Vendor's rights or the Vendee's or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's or the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with the interest on the principal portion thereof from the date of such demand to the date of payment at the rate of 11% per annum, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee. The provisions of this paragraph are subject to the limitations of the liability of the Vendee contained in the last paragraph of Article 3 hereof and in Article 21 hereof.

The Vendee will, subject to the limitations of the last paragraph of Article 3 hereof, pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, and, in the case of the Railroad, subject to the rights and interests of the Railroad under the Lease, the Vendee and the Railroad, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. *Recording.* The Vendee or the Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee or the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annexes hereto, the Transfer Agreement, the Hulk Purchase Agreement, the Finance Agreement and the Lease exclusively and completely state the rights of the Vendor, the Vendee and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Vendee, the Builder and the Railroad.

ARTICLE 20. *Notice.* Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Vendee, at One Chase Manhattan Plaza, New York, New York 10005, attention of Administrative Assistant,

(b) to the Vendor, at P. O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department,

(c) to the Builder, at Burlington Northern Building, 176 East 5th Street, St. Paul, Minnesota 55101, attention of R. C. Burton, Jr.,

(d) to the Railroad, at Burlington Northern Building, 176 East 5th Street, St. Paul, Minnesota 55101, attention of R. C. Burton, Jr.,

(e) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Railroad by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. *Immunities; Satisfaction of Undertakings.* No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the first paragraph of Article 6, the second, fifth, seventh and eighth paragraphs of Article 16, and under Articles 5, 8, 9, 10, 12, 13 and 18 hereof shall be deemed in all respects satisfied by the Railroad's undertakings contained in the Lease and the Finance Agreement. The Railroad shall be liable in respect of its undertakings hereunder for such obligations under said Articles regardless of whether or not the Lease provides for the discharge of such obligations or is in effect. The Vendee shall not have any responsibility for the Railroad's failure to perform such obligations, irrespective of whether the Lease is in effect, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Railroad's undertakings under the Lease shall be effective unless joined in by the Vendor.

ARTICLE 22. *Law Governing.* The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; *provided, however,* that the parties shall be

entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

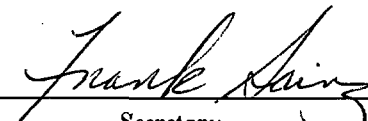
IN WITNESS WHEREOF the parties hereto have executed or caused this instrument to be executed, all as of the date first above written.

CHASE MANHATTAN SERVICE CORPORATION

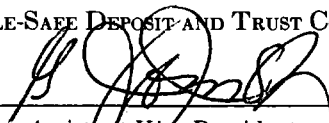
By   
Its Vice President

(CORPORATE SEAL)

Attest:

  
~~Secretary~~  
Assistant Treasurer

MERCANTILE-SAVE DEPOSIT AND TRUST COMPANY

By   
Its Assistant Vice President

(CORPORATE SEAL)

Attest:

  
Corporate Trust Officer

BURLINGTON EQUIPMENT COMPANY

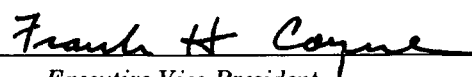
By   
Its President

(CORPORATE SEAL)

Attest:

  
Secretary

BURLINGTON NORTHERN INC.

By   
Its Executive Vice President

(CORPORATE SEAL)

Attest:

  
Secretary

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

On this 11 day of March 1975, before me personally appeared **Edward P. Brennan**, to me personally known, who, being by me duly sworn, says that he is a Vice President of Chase Manhattan Service Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Cornelia C. Terry*

Notary Public  
CORNELIA C. TERRY  
NOTARY PUBLIC, State of New York  
No. 52-0830733  
Qualified in Suffolk County  
Certificate Filed in New York County  
Commission Expires March 30, 1976

[NOTARIAL SEAL]

My Commission Expires:

STATE OF MARYLAND }  
CITY OF BALTIMORE } ss.:

On this 12<sup>th</sup> day of March 1975, before me personally appeared **G. J. Johnston**, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of Mercantile-Safe Deposit and Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

*Nancy C. Schmidt*  
Notary Public

I WAS COMMISSIONED AS  
NANCY C. SCHMIDT

[NOTARIAL SEAL]

My Commission Expires: JUL 1 1978

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss:

On this 11 day of March 1975, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is the President of Burlington Equipment Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

My Commission Expires:

Cornelia C. Terry

Notary Public  
CORNELIA C. TERRY  
NOTARY PUBLIC, State of New York  
No. 52-4523733  
Qualified in Suffolk County  
Certificate Filed in New York County  
Commission Expires March 30, 1978

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss:

On this 11 day of March 1975, before me personally appeared Frank H. Coyne, to me personally known, who being by me duly sworn, says that he is Executive Vice President of Burlington Northern Inc., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

My Commission Expires:

Cornelia C. Terry

Notary Public  
CORNELIA C. TERRY  
NOTARY PUBLIC, State of New York  
No. 52-4523733  
Qualified in Suffolk County  
Certificate Filed in New York County  
Commission Expires March 30, 1978



## ANNEX A

ITEM 1: The Builder warrants that the Equipment will be reconstructed in accordance with the requirements, specifications and standards set forth in Article 1 of the Reconstruction and Conditional Sale Agreement to which this Annex A is attached (hereinafter called the Agreement) and warrants the Equipment to be free from defects in material and workmanship under normal use and service, the liability of the Builder under this warranty being limited, as the Builder may elect: (i) to repair of the defects at the Builder's plant; or (ii) to replacement of a defective part; or (iii) to the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchange of Traffic. The Builder shall be given reasonable opportunity to verify any claim of defects in workmanship or materials.

The foregoing warranty of the Builder shall begin at the time of delivery of a unit of the Equipment to the Vendee and terminate two years after such delivery. THE BUILDER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE VENDEE'S AND VENDOR'S RIGHTS UNDER THE FOREGOING WARRANTY SHALL BE THEIR SOLE AND EXCLUSIVE REMEDY AND THE BUILDER WILL HAVE NO LIABILITY FOR LOST PROFIT OR FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR COMMERCIAL LOSSES. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ON THE PART OF THE BUILDER, AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER WARRANTY LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT, EXCEPT FOR THE PATENT INDEMNIFICATION INCLUDED IN ITEM 2 OF THIS ANNEX A.

The Builder further agrees with the Vendor and the Vendee that neither the inspection as provided in Article 2 of the Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Vendor or the Vendee of any of their rights under this Item 1.

ITEM 2: The Builder agrees to indemnify, protect and hold harmless the Vendor and the Vendee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee, the Vendor, its assigns or the users of the Equipment because of the use in or about the reconstruction of the Hulks or any unit thereof or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

✓

**SCHEDULE A**

**EQUIPMENT DESCRIPTION**

Quantity	Description of Equipment	Railroad's Road (New) Numbers (both inclusive)	Hulk Purchase Price		Base Reconstruction Cost		Estimated Purchase Price		Place of Delivery	Specifications
			Per Unit	Total	Per Unit	Total	Per Unit	Total		
100	40' Wide Door Box Cars	BN199600-199699	\$5,437	\$ 543,700	\$ 9,253	\$ 925,300	\$14,690	\$1,469,000	St. Cloud, Minnesota	CRP-11-75*
100	40' Wide Door Box Cars	BN190000-190099	4,650	465,000	8,824	882,400	13,474	1,347,400	St. Cloud, Minnesota	CRP-12-75*
200	Open Top Hopper Cars	BN512400-512599	4,148	829,600	16,013	3,202,600	20,161	4,032,200	St. Cloud, Minnesota	CRP-19-75*
				\$1,838,300		\$5,010,300		\$6,848,600		

\* As described in Annexes to letter dated December 12, 1974 from R. E. Taylor to R. C. Burton, Jr.

**SCHEDULE B****AMORTIZATION SCHEDULE**

(Payments Required per \$1,000,000 Investment by  
Clauses (2) and (3) of Subparagraph (b) of the  
Third Paragraph of Article 3 of Reconstruction  
and Conditional Sale Agreement)

<b>Payment Number</b>	<b>Principal Balance</b>	<b>Payments Interest</b>	<b>Allocated to Principal</b>	<b>Total Payment</b>
1	\$1,000,000.00	\$50,000.00	\$ 0.00	\$ 50,000.00
2	1,000,000.00	50,000.00	0.00	50,000.00
3	1,000,000.00	50,000.00	0.00	50,000.00
4	1,000,000.00	50,000.00	0.00	50,000.00
5	1,000,000.00	50,000.00	0.00	50,000.00
6	1,000,000.00	50,000.00	0.00	50,000.00
7	1,000,000.00	50,000.00	0.00	50,000.00
8	1,000,000.00	50,000.00	0.00	50,000.00
9	1,000,000.00	50,000.00	0.00	50,000.00
10	1,000,000.00	50,000.00	0.00	50,000.00
11	1,000,000.00	50,000.00	0.00	50,000.00
12	1,000,000.00	50,000.00	24,939.98	74,939.98
13	975,060.10	48,753.00	63,864.62	112,617.62
14	911,195.48	45,559.77	65,311.60	110,871.37
15	845,883.88	42,294.19	62,579.37	104,873.56
16	783,304.51	39,165.22	63,997.24	103,162.46
17	719,307.27	35,965.36	61,235.22	97,200.58
18	658,072.05	32,903.60	62,622.64	95,526.24
19	595,449.41	29,772.47	51,574.04	81,346.51
20	543,875.37	27,193.76	52,742.57	79,936.33
21	491,132.80	24,556.64	50,030.92	74,587.56
22	441,101.88	22,055.09	51,164.46	73,219.55
23	389,937.42	19,496.87	45,006.80	64,503.67
24	344,930.62	17,246.53	46,026.51	63,273.04
25	298,904.11	14,945.20	47,069.32	62,014.52
26	251,834.79	12,591.74	48,135.76	60,727.50
27	203,699.03	10,184.95	49,226.36	59,411.31
28	154,472.67	7,723.63	50,341.67	58,065.30
29	104,131.00	5,206.55	51,482.25	56,688.80
30	52,648.67	2,632.43	52,648.67	55,281.10

## **TRANSFER AGREEMENT**

March 1, 1975

Mercantile Safe-Deposit and Trust Company  
P. O. Box 2258  
Baltimore, Maryland 21203

*Attention:* Corporate Trust Department

The undersigned is purchasing the used railroad equipment described in Schedule A hereto (hereinafter called the Hulks) from Burlington Northern Inc. (the "Railroad"). The undersigned desires to have such Hulks rebuilt and upon completion of such rebuilding such Hulks will bear the new identifying numbers set forth in Schedule A hereto. The undersigned hereby agrees with you as follows:

1. In order to cause the Hulks to be reconstructed and sold to the undersigned by you on conditional sale, the undersigned hereby assigns and transfers to you a security title to the Hulks.

2. You will hold security title under and pursuant to a Reconstruction and Conditional Sale Agreement dated as of March 1, 1975 (hereinafter called the Reconstruction and Conditional Sale Agreement), among Burlington Equipment Company (the "Builder"), the Railroad, the undersigned and you, and you will direct that the Hulks be reconstructed, pursuant to the Reconstruction and Conditional Sale Agreement in accordance with the applicable specifications. In accordance with the Reconstruction and Conditional Sale Agreement the undersigned will direct the Hulks to be delivered to the Builder on your behalf at such point or points within the United States of America as the Builder shall designate.

3. Upon completion of the reconstruction, the reconstructed Hulks will be delivered and conditionally sold by you to the undersigned in accordance with the Reconstruction and Conditional Sale Agreement.

4. If Hulks are excluded from the Reconstruction and Conditional Sale Agreement you shall assign your interest in such Hulks, without warranty, as provided in the third paragraph of Article 2 thereof.

5. It is understood and agreed that this Agreement is being entered into solely to permit you to effectuate the foregoing and your interest in the Hulks, in present form or as rebuilt, is a security interest and that the undersigned shall at all times be the beneficial owner of the same.

If the foregoing is in accordance with your understanding, please sign a copy of this letter in the space provided and return it to the undersigned, whereupon this letter shall become a valid and binding agreement between us.

Very truly yours,

CHASE MANHATTAN SERVICE CORPORATION

By \_\_\_\_\_  
Its *Vice President*

[SEAL]

ACCEPTED:

MERCANTILE SAFE-DEPOSIT AND TRUST COMPANY

By \_\_\_\_\_  
Its *Assistant Vice President*

STATE OF NEW YORK } ss.:  
COUNTY OF NEW YORK }

On this       day of March, 1975, before me personally appeared       , to me personally known, who, being by me duly sworn, says that his is a Vice President of Chase Manhattan Service Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Notary Public*

[NOTARIAL SEAL]

**My Commission Expires:**

**SCHEDULE A**

<b><u>Description of Equipment</u></b>	<b><u>Series of Identifying Numbers of Old Hulks</u></b>	<b><u>Identifying Numbers of Rebuilt Hulks (Both Inclusive)</u></b>
100 40' wide door boxcars	CBQ 41000-41599	BN 199600-199699
100 40' wide door boxcars	NP 8000-9148	BN 190000-190099
200 open top hopper cars	CBQ 172000-172499	BN 512400-512599

**LEASE OF RAILROAD EQUIPMENT**

**Dated as of March 1, 1975**

**between**

**CHASE MANHATTAN SERVICE CORPORATION,**

**and**

**BURLINGTON NORTHERN INC.**



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### Attachment to Lease:

SCHEDULE A—Description of Equipment

SCHEDULE B—Casualty Values

LEASE OF RAILROAD EQUIPMENT, dated as of March 1, 1975, between Chase Manhattan Service Corporation (the "Lessor") and Burlington Northern Inc. (the "Lessee").

WHEREAS, the Lessor, Burlington Equipment Company (the "Builder"), Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor") and the Lessee have entered into a Reconstruction and Conditional Sale Agreement dated as of March 1, 1975, (the "Security Document"), wherein the Vendor has agreed to sell to the Lessor its interest in the railroad equipment described in Schedule A hereto after it has been reconstructed by the Builder;

WHEREAS, the Lessee desires to lease all the units of said equipment, or such lesser number as are delivered and accepted and settled for under the Security Document on or prior to June 30, 1976 (such units described in Schedule A hereto being hereinafter called the "Units"), at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§1. *Net Lease.* This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Document or the Finance Agreement or the Hulk Purchase Agreement (each as defined in the Security Agreement), or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§2. *Delivery and Acceptance of Units.* The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document. Each delivery of a Unit to the Lessor under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the "Certificate of Acceptance") in accordance with the provisions of Article 2 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with §5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

**§3. Rentals.** The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, an amount per day (computed on the basis of a 360-day year of twelve 30-day months) for the period, if any, to and including the Closing Date under the Security Document pertaining to such Unit to but not including the earlier of (x) June 30, 1976 or (y) the Closing Date for the final group of Units under the Security Document (said earlier date being hereinafter called the "Cut-Off Date") equal to 0.0278% of the Purchase Price (as defined in the Security Document) of such Unit, payable on the Cut-Off Date. The Lessee further agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 30 consecutive rental payments payable semiannually in arrears commencing on the first semiannual anniversary date of the Cut-Off Date, each of the first eight thereof to be in an amount equal to 3.00% of the Purchase Price of each Unit then subject to this Lease and each of the final 22 thereof to be, in the case of each Unit delivered to and accepted by the Lessee in accordance with §2 hereof on or prior to December 31, 1975, in an amount equal to 7.10% of the Purchase Price of each such Unit then subject to this Lease, and in the case of each Unit delivered to and accepted by the Lessee in accordance with §2 hereof following such date, in an amount equal to 7.415% of the Purchase Price of each such Unit then subject to this Lease.

The rental payments hereinbefore set forth are subject to adjustment as provided in the Finance Agreement. If any of the semiannual rental payment dates referred to above is not a business day the semiannual rental payment otherwise payable on such date shall be payable on the next preceding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York or Baltimore, Maryland are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease at the principal office of the Vendor, for the account of the Lessor, in care of the Vendor, with instructions to the Vendor first, to apply such payments in accordance with the provisions of the Finance Agreement and the Security Document. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

**§4. Term of Lease.** The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder in accordance with the provisions of §2 hereof and, subject to the provisions of §§7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to §3 hereof.

It is understood and agreed that the right, title and interest of the Vendor is, by the express terms of the Security Document, subject to the rights and interests hereunder of the Lessee in and to the Units.

**§5. Identification Marks.** The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Mercantile-Safe Deposit and Trust Company, Agent, Security Owner" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessor may mark each Unit to identify the Lessor's interest in such Unit. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect set forth in subparagraph C of §15 hereof in respect of such statement.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person or entity to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

**§6. Recording.** The Lessee, at its own expense, will cause this Lease, the Security Document, the Transfer Agreement and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit, record (and will refile, re-register, redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units or for the purpose of carrying out the intention of this Lease, the Security Document or the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

**§7. Payment for Casualty Occurrences; Insurance.** In the event that any Unit shall be or become lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or title to such Unit or the use thereof shall be taken or requisitioned by condemnation, eminent domain or otherwise, for a period, in the case of a taking or requisition of use, extending beyond the term of this Lease (each such occurrence, except for any taking or requisition of such use which by its terms is indefinite or which does not extend beyond the term of this Lease, being hereinafter called a "Casualty Occurrence", it being understood that such a taking or requisition of use which is in effect on the last day of the term of this Lease shall constitute a "Casualty Occurrence") during the term of this Lease or before possession of such Unit is delivered to the Lessor as provided in §14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice (or, if the last rental payment date has occurred, on the date 30 days following such notice) the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B opposite such date.

In the event that during the term of this Lease the use of any Unit is requisitioned or taken by any governmental authority by condemnation, under the power of eminent domain or otherwise under circumstances which do not constitute a Casualty Occurrence, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

Except as hereinabove in this §7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder until possession of such is delivered to the Lessor pursuant to §14 hereof.

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies in respect of similar equipment, and in any event comparable to those insured against by the Lessee in respect of similar equipment owned by it and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. No such policy of insurance shall provide that coverage thereunder shall be rescinded, impaired or invalidated by any act or neglect of the Lessee and the Lessee shall, upon the request of the Lessor (but not more frequently than annually) furnish a certificate of the insurer to such effect. All policies of insurance shall further provide for a thirty-day minimum written cancellation notice to the Vendor and Lessor. Any insurance proceeds as the result of insurance carried by the Lessee or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this §7. If the Lessor shall receive any such insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this §7 without deduction for such insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§8. *Reports.* On or before March 31 in each year, commencing with the calendar year 1976, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence (identifying in each such case whether such Unit was delivered and accepted hereunder on or prior to December 31, 1975 or following such date) or are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repairs (other than running repairs) during the preceding calendar year and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by §5 hereof and the Security Document have been preserved or replaced and (c) stating that all reports required to be made to the Lessor hereunder during the preceding year have been made. The Lessor and the Vendor shall have the right by their respective agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

As soon as available and in any event within 60 days after the end of each quarterly period, the Lessee will furnish to the Lessor, the Vendor and to any party for whom the Vendor is acting as agent under the Security Document who shall so request, a balance sheet of the Lessee (Form CBS as filed with the Interstate Commerce Commission [the "ICC"]) as at the end of such period, and an income statement of the Lessee (Form RE & I filed with the ICC) for the quarterly period ending on the date of such balance sheet, setting forth comparative figures for the corresponding quarter of the preceding fiscal year, all in reasonable detail and certified by the principal accounting officer of the Lessee, and the quarterly report to its stockholders. As soon as available and in any event within 120 days after the end of each fiscal year, the Lessee will furnish to each of said parties the annual report to its stock-

holders (including a statistical supplement thereto) as certified to by its independent certified public accountants and prepared in accordance with generally accepted accounting principals. The Lessee will also furnish to the Lessor, the Vendor and to any party for whom the Vendor is acting as agent under the Security Document, such additional financial information as any such party may reasonably request.

As soon as available and in any event within 120 days after the end of each fiscal year, the Lessee will deliver to the Lessor and the Vendor a certificate signed by any Vice President, the Treasurer or any Assistant Treasurer of the Lessee stating that a review of the activities of the Lessee during such year has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its covenants and obligations under the Lease and the Security Document and that to the best of his knowledge the Lessee during such year has kept, observed, performed and fulfilled each and every covenant and obligation contained herein and in the Security Document and that no Event of Default under this Lease or event of default under the Security Document or event which, with the giving of notice or the passage of time or both, would constitute such an Event of Default or event of default has occurred, or if an Event of Default under this Lease or an event of default under the Security Document shall exist or shall have existed or if an event has occurred which, with the giving of notice or the passage of time or both, would constitute such an Event of Default or an event of default, specifying such Event of Default, event of default or such event and the nature and status thereof.

**§9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance.* The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 1 and 2 of Annex A to the Security Document. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.**

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair, ordinary wear and tear excepted.

Any and all additions to any Unit (except additions which are not replacements but have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commis-

sion, the Department of Transportation or any other applicable regulatory body and which can be removed without damage to and without impairing the originally intended function or use of such Unit and which are so removed without cost or expense to the Lessor), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Document) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. The Lessee shall furnish to the Lessor with each such report to be filed by the Lessor instructions as to the filing thereof.

**§10. Default.** If, during the continuance of this Lease, one or more of the following events (each such event being hereinafter sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any part of the rental provided in §3 hereof, and such default shall continue for ten days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants and agreements on the part of the Lessee contained herein or in the Security Document, and such default shall continue for 30 days;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Security Document and this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

E. any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Security Document under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Security Document), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Lessee under this Lease and under the Security Document shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may declare this Lease to be in default and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may do

one or more of the following as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with, any mandatory requirements of, applicable law then in effect:

(a) at any time or from time to time demand that Lessee, and Lessee shall upon the written demand of Lessor, return the Units or any of them (as specified by Lessor) promptly to Lessor in the manner and condition required by, and otherwise in accordance with all of the provisions of, §11 hereof, or Lessor, at its option, may enter into the premises where any Unit or Units are located and take immediate possession of and remove the same by summary proceedings or otherwise, all without liability to Lessor for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise;

(b) at any time or from time to time, sell the Units or any of them at public or private sale, as Lessor may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such sale or for the proceeds thereof (except to the extent required by paragraph (e) below if Lessor elects to exercise its rights under said paragraph), in which event Lessee's obligation to pay rent hereunder for such Units for rental periods commencing after the date of such sale shall terminate (except to the extent that such rent is to be included in computations under paragraph (d) or paragraph (e) below if Lessor elects to exercise its rights under either of said paragraphs);

(c) at any time or from time to time, hold, keep idle or lease to others the Units or any of them, as Lessor in its sole discretion may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that Lessee's obligation to pay rent with respect to such Units for rental periods commencing after Lessee shall have been deprived of possession of such Units pursuant to this §15 shall be reduced by the net proceeds, if any, received by Lessor from leasing such Units to any person other than Lessee for the same rental periods or any portion thereof;

(d) whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a), (b) or (c) above with respect to the Units or any of them, Lessor, by written notice to Lessee specifying a payment date which shall be a rent payment date not earlier than 10 days after the date of such notice, may demand that Lessee pay to Lessor and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the rent for such Units due after the payment date specified in such notice), the rental payment due on such specified payment date plus any unpaid rent for such Units due for any other periods prior to the rental period commencing with the payment date specified in such notice plus whichever of the following amounts Lessor, in its sole discretion, shall specify in such notice (together with interest on such amount at the rate of 11% per annum from the payment date specified in such notice to the date of actual payment): (i) an amount equal to the excess, if any, of the aggregate Casualty Value of such Units, determined as of the payment date specified in such notice, over the Fair Market Rental (determined as hereafter provided) of such Units for the remainder of the then current term after discounting such Fair Market Rental (semiannually on the rent payment dates for the remainder of the term) to present worth as of the payment date specified in such notice at the rate of 5% per annum, or (ii) an amount equal to the excess, if any, of the Casualty Value for such Units, determined as of the payment date specified in such notice, over the Fair Market Value of such Units (determined as hereafter provided) as of the payment date specified in such notice;

(e) if Lessor shall have sold any Units pursuant to paragraph (b) above, Lessor, in lieu of exercising its rights under paragraph (d) above with respect to such Units, may, if it shall so elect, demand that Lessee pay to Lessor and Lessee shall pay to Lessor, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the rent for such Units due for rental periods after the rental period in which such sale occurs), any unpaid rent for such Units due for periods up to and including the rental period in which such sale occurs plus the amount of any deficiency between the net proceeds of such sale and the Casualty Value of such Units, determined as of the rental



date next preceding the date of such sale, together with interest at the rate of 11% per annum on the amount of such deficiency from the rent date as of which such Casualty Value is computed until the date of actual payment; and/or

(f) Lessor may exercise any other right or remedy, either at law or in equity, which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof or to rescind this Lease as to any or all of the Units.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid rent due hereunder before or during the exercise of any of the foregoing remedies and for all legal fees and other costs and expenses incurred by reason of the occurrence of any Event or Events of Default or the exercise of Lessor's rights and remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Units in accordance with §11 hereof or in placing such Unit in the condition required by said §11, and in removing or discharging all liens, charges and encumbrances as required by §12 hereof and, without limiting the effect of each and all of the indemnification of the Lessee set forth in Sections 14, 15, 16, 17 and 18 of the Finance Agreement, any and all loss, liability, cost and expense incurred by Lessor by reason of the exercise by the Vendor or any party whose interest is represented by the Vendor or any of them of any of their rights and remedies in connection with the occurrence of an Event or Events of Default.

For the purpose of paragraph (d) above, the "Fair Market Rental" or the "Fair Market Value" of any Unit shall be determined by appraisal as provided in §13 hereof (provided that (i) if Lessee fails to appoint an appraiser for purposes of such appraisal as provided in said §13 within 10 days after Lessor requests such appointment, such appraisal shall be made by an independent appraiser appointed by Lessor, and (ii) the "Fair Market Rental" or the "Fair Market Value" of such Unit shall be zero if Lessor is unable to recover possession of such Unit as provided in paragraph (a) above). At any sale of a Unit pursuant to this section the Lessor, the Vendor or any party whose interest is represented by the Vendor may bid for and purchase such Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default.

The Lessee also agrees to furnish the Vendee and the Vendor, promptly upon any responsible officer becoming aware of any condition which constitutes an Event of Default under this Lease for which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this paragraph, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

**§11. *Return of Units Upon Default.*** If this Lease shall terminate pursuant to §10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for rent or storage for a period not exceeding 270 days; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this §11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

**§12. *Assignment; Possession and Use.*** The Lease and all rent and other sums due and to become due hereunder have been assigned to the Vendor pursuant to Article 7 of the Security Document, and all rent and other sums due and to become due hereunder shall be paid by the Lessee to the Vendor as provided in §3 hereof until the Conditional Sale Indebtedness and all interest thereon under the Security Document shall have been paid in full. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Vendor in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the Vendor) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the Vendor, the Lessee shall be unconditionally and absolutely obligated to pay the Vendor all of the rents and other sums which are the subject matter of the assignment, and (ii) the Vendor shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Vendor) which by the terms of this Lease are permitted or provided to be exercised by the Lessor; provided that the Vendor may not, without the prior written consent of the Lessor, waive compliance by, or consent or agree to the non-performance by the Lessee of, any of its obligations hereunder. From and after the date on which such assignment shall cease and terminate in accordance with Article 7 of the Security Document, this Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment by the Lessor, and all of the rights of the Lessor hereunder shall inure to the benefit of any such assignee of the Lessor.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than Lessor's Liens as hereinafter in this paragraph defined) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor or the Vendor therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph. As used herein, the term "Lessor's Liens" shall mean liens, charges, security interests and other encumbrances on or in Equipment securing claims by any party against Lessor or its successors or assigns other than (i) any such encumbrances created by the Security Document, the Transfer Agreement or the Hulk Purchase Agreement or related to the right, title and interest of the Lessor in Equipment, the leasing of Equipment hereunder and any transaction pursuant to any of such documents and (ii) any such encumbrances securing claims which the Lessee or the Builder has warranted against or is obligated to pay, discharge or indemnify the Lessor against hereunder or under the Security Document, the Finance Agreement or the Hulk Purchase Agreement.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Document; *provided, however*, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this §12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Security Document and the Finance Agreement) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

**§13. Purchase and Renewal Options.** Provided that this Lease has not been earlier terminated and that no Event of Default, or event which with the giving of notice or the passage of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the original or any extended term of this Lease elect to purchase at the end of such term all, but not fewer than all of the Units then covered by this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of the term of this Lease.

For purposes of this §13 and §10 hereof, Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession and a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value and the Units

shall be assumed to be in the condition under which they are required to be maintained pursuant to §9 hereof. If on or before four months prior to the expiration of the then current term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the preceding definition by the Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor may select with the approval of the Lessee, or failing such approved selection, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all Lessor's Liens) for such Units and such other documents as may be required to release such Units, from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

Provided that this Lease has not been earlier terminated and that no Event of Default, or event which with the passage of time or the giving of notice or both would constitute an Event of Default, shall have occurred and be continuing, the Lessee may, by written notice delivered to the Lessor not less than six months prior to the end of the original or an extended term of this Lease, elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease for not more than three such extended terms at a "Fair Market Rental" payable in semiannual payments on the semiannual anniversaries of the expiration of the original term or the preceding term. The first such extended term shall be for a term of three years, the next such extended term shall be for a term of two years and the final such extended term shall be for a term of one year.

For the purposes of this §13 and §10 hereof, Fair Market Rental shall be determined on the basis of, and shall be equal in amount to the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, cost of removal from the location of current use shall not be a deduction from such rental and the Units shall be assumed to be in the condition under which they are required to be maintained pursuant to §9 hereof. If, on or before four months prior to the expiration of the then current term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such value shall be determined in accordance with the preceding definition by the Appraiser (as defined above). The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

**§14. *Return of Units upon Expiration of Term.*** As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit,

to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. Each Unit returned to the Lessor pursuant to this §14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction.

§15. *Opinion of Counsel.* On the first Closing Date under Article 3 of the Security Document, the Lessee will deliver to the Lessor ten counterparts of the written opinion of counsel for the Lessee and the Builder, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, to the effect that:

A. the Lessee and the Builder are each corporations legally incorporated, validly existing and in good standing under the laws of their respective states of incorporation with adequate corporate power to own their respective properties and to carry on their respective businesses as now conducted, and to enter into the Security Document, the Hulk Purchase Agreement, the Finance Agreement and this Lease;

B. the Security Document, the Hulk Purchase Agreement, the Finance Agreement and this Lease have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lessee, enforceable in accordance with their respective terms, and the Security Document has been duly authorized, executed and delivered by the Builder and constitutes the legal, valid and binding agreement of the Builder, enforceable in accordance with its terms;

C. the Security Document, the Transfer Agreement referred to in the Security Document and this Lease have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's and the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government or agency thereof is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units in the United States of America;

D. no approval is required from any public regulatory body with respect to the entering into or performance of the Security Document, the Hulk Purchase Agreement, the Finance Agreement or this Lease;

E. the entering into and performance of the Security Document, the Hulk Purchase Agreement, the Finance Agreement or this Lease will not violate any law or regulation, and will not result in any breach of, or constitute a default under, the Restated Certificate of Incorporation or the Bylaws of the Lessee or the Builder, or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee or the Builder is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee or the Builder, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Vendor's or Lessor's right, title and interest therein; *provided, however*, that such liens may attach to the leasehold interest of the Lessee hereunder in and to the Units.

§16. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of

the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 11% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§17. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first-class certified, addressed as follows:

(a) if to the Lessor, One Chase Manhattan Plaza, New York, New York 10005, attention of Administrative Assistant, and

(b) if to the Lessee, at Burlington Northern Building, 176 East 5th Street, St. Paul, Minnesota 55101, attention of R. C. Burton, Jr.,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§18. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§19. *Execution.* This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§20. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

CHASE MANHATTAN SERVICE CORPORATION

By \_\_\_\_\_  
*Its Vice President*

[CORPORATE SEAL]

ATTEST:

\_\_\_\_\_  
*Assistant Secretary*

BURLINGTON NORTHERN INC.

By \_\_\_\_\_  
*Its Executive Vice President*

[CORPORATE SEAL]

ATTEST:

\_\_\_\_\_  
*Secretary*

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

On this day of March, 1975, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is a Vice President of CHASE MANHATTAN SERVICE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Notary Public*

[NOTARIAL SEAL]

**My commission expires:**

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

On this day of March, 1975, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is Executive Vice President of BURLINGTON NORTHERN INC., that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Notary Public*

[NOTARIAL SEAL]

**My commission expires:**



**Schedule A  
to Lease**

<u>Quantity</u>	<u>Description of Equipment</u>	<u>Lessee's Road Numbers (both inclusive)</u>
100	40' wide door boxcars	BN 199600-199699
100	40' wide door boxcars	BN 190000-190099
200	Open top hopper cars	BN 512400-512599

# Schedule B

## To Lease

<b>Cut-Off Date or Number of Semiannual Rent Payment Date on which Casualty Value is Paid</b>	<b>Percentage of Purchase Price</b>
Cut-Off Date .....	104.99
1 .....	108.52
2 .....	111.82
3 .....	114.87
4 .....	117.72
5 .....	120.35
6 .....	119.01
7 .....	121.24
8 .....	123.30
9 .....	121.06
10 .....	114.72
11 .....	111.80
12 .....	108.53
13 .....	104.96
14 .....	97.44
15 .....	93.50
16 .....	89.37
17 .....	85.06
18 .....	80.58
19 .....	75.91
20 .....	71.09
21 .....	66.12
22 .....	61.01
23 .....	55.75
24 .....	50.36
25 .....	44.85
26 .....	39.20
27 .....	33.42
28 .....	27.50
29 .....	21.44
30 and thereafter .....	15.00
during any renewal or storage period	